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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,024	09/02/2003	Gregg M. Duthaler	H-357	2023
26245	7590	07/08/2008		
DAVID J COLE E INK CORPORATION 733 CONCORD AVE CAMBRIDGE, MA 02138-1002			EXAMINER THOMAS, BRANDI N	
			ART UNIT 2873	PAPER NUMBER
			MAIL DATE 07/08/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/605,024	Applicant(s) DUTHALER ET AL.	
	Examiner BRANDI N. THOMAS	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-27 and 33-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20, 23-27, 33-36 and 41-44 is/are allowed.
- 6) ☒ Claim(s) 21, 22, 37 and 39 is/are rejected.
- 7) ☒ Claim(s) 38 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Action</u> . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kiyomi (JP 2002-098945).

Regarding claim 21, Kiyomi discloses, in figure 1, an article of manufacture, a layer of a solid electro-optic medium (5) having first and second surfaces on opposed sides thereof (section 0036); a first release sheet (7) over the first surface of the layer of solid electro-optic medium (5) (section 0036); a second release sheet (2) over the second surface of the layer of solid electro-optic medium (5) (section 0036) but does not specifically disclose the release sheets in contact the electro-optic medium. However, It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the invention to have the release sheets in contact the electro-optic medium, since it has been held that rearranging parts of an invention involves only routine skill in the art (In re Japiske, 86 USPQ 70). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the invention to have the release sheets in contact the electro-optic medium for the purpose of transfer onto a substrate.

3. Claims 22, 37, and 39, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiyomi (JP 2002-098945) as applied to claim 19 above, and further in view of Kazlas et al. (2002/0106847).

Regarding claims 22 and 37, Kiyomi discloses the claimed invention but does not specifically disclose wherein the electro-optic medium is an electrophoretic medium comprising a plurality of capsules, each capsule comprising a suspending fluid, a plurality of electrically charged particles suspended in the suspending fluid and capable of moving therethrough on application of an electric field to the suspending fluid, and a capsule wall surrounding the suspending fluid and the electrically charged particles. Kazlas et al. discloses, in figure 11, an article of manufacture, wherein the electro-optic medium (126) is an electrophoretic medium (section 0109) comprising a plurality of capsules (124), each capsule (124) comprising a suspending fluid (section 0108), a plurality of electrically charged particles (not shown, located in the capsules 124) suspended in the suspending fluid and capable of moving therethrough on application of an electric field to the suspending fluid, and a capsule wall surrounding the suspending fluid and the electrically charged particles (not shown, located in the capsules 124) (sections 0108 and 0109). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the device of Kiyomi with the electrophoretic medium of Kazlas et al. for the purpose of displaying a visible state (section 0108).

Regarding claim 39, Kiyomi discloses the claimed invention but does not specifically disclose wherein the suspending fluid and the plurality of electrically charged particles are retained within a plurality of cavities formed in a carrier medium. Kazlas et al. discloses, in figure 11, wherein the suspending fluid and the plurality of electrically charged particles are

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retained within a plurality of cavities (124) formed in a carrier medium (126) (sections 0108 and 0109). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the device of Kiyomi with the electrophoretic medium of Kazlas et al. for the purpose of displaying a visible state (section 0108).

Allowable Subject Matter

4. Claims 17-20, 23-27, 33-36, and 41-44 are allowed.
5. Claims 38 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claim(s), in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in claim(s) 17-20, 34, 36, 38, 40, 42, and 44, wherein the claimed invention comprises, in claim 17, an article of manufacture comprising: a release sheet disposed on the opposed side of the first adhesive layer from the layer of solid electro-optic medium; and a second adhesive layer on the second surface of the layer of solid electro-optic medium, in claim 23, an article of manufacture comprising: a release sheet disposed on the opposed side of the first adhesive layer from the layer of solid electro-optic medium; and a second adhesive layer on the second surface of the layer of solid electro-optic medium; laminating the article to a front substrate via the second adhesive layer, thereby forming a front subassembly, in claim 38, wherein the suspending fluid and the plurality of electrically charged particles are present as a plurality of discrete

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droplets and a continuous phase of polymeric material surrounds the droplets; in claim 40, wherein the electro-optic medium is a rotating bichromal member medium or an electrochromic medium, as claimed.

Response to Arguments

7. Applicant's arguments, see pages 2 and 3, filed 3/27/08, with respect to claims 17 and 18 have been fully considered and are persuasive. The rejection of claims 17 and 18 has been withdrawn.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI N. THOMAS whose telephone number is (571)272-2341. The examiner can normally be reached on Monday - Thursday from 6-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott J. Sugarman/
Primary Examiner, Art Unit 2873

BNT
/Brandi N Thomas/
Examiner Art Unit 2873